

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

HITACHI CONSUMER ELECTRONICS CO.,  
LTD., and HITACHI ADVANCED DIGITAL,  
INC.,

Plaintiff,

v.

TOP VICTORY ELECTRONICS  
(TAIWAN)CO. LTD., TPV INT'L (USA), INC.,  
ENVISION PERIPHERALS, INC., TOP  
VICTORY ELECTRONICS (FUJIAN) CO.  
LTD., TPV ELECTRONICS (FUJIAN) CO.  
LTD., TPV TECHNOLOGY LTD., and VIZIO,  
INC.,

Defendants;

CIVIL ACTION NO. 2:10-cv-260-JRG

JURY

**ORDER GRANTING-IN-PART HITACHI'S MOTION TO SEVER AND STAY  
LITIGATION OF CERTAIN PATENTS PURSUANT TO FEDERAL RULE OF CIVIL  
PROCEDURE 21**

Before the Court is Plaintiffs' Hitachi Consumer Electronics Co., Ltd. and Hitachi Advanced Digital, Inc.'s (collectively "Hitachi") Motion to Sever and Stay Litigation of Certain Patents Pursuant to Federal Rule of Civil Procedure ("FRCP") 21 (Docket No. 296). In its motion, Hitachi requests that the Court sever its claims for infringement of United States Patent Nos. 6,037,995, 6,388,713, 6,144,412, 7,889,281, and 7,012,769 (the "Subject Patents") into a new action pursuant to FRCP 21, and then stay those claims. Having considered Hitachi's motion, the Court DENIES this request.

Hitachi alternatively requests that the Court sever its claims for infringement of the Subject Patents into a new action pursuant to FRCP 21, and then dismiss that new action in accordance with FRCP 41(a)(2). TPV Defendants<sup>1</sup> oppose the alternative motion. Having considered Hitachi's motion and the parties' arguments at the April 2, 2013 Pre-Trial Conference, the Court GRANTS this alternative relief requested by Hitachi.

It is therefore ORDERED that Counts III ('995), IV ('713), VI ('769), VIII ('412), and IX ('281) of Hitachi's First Amended Complaint (Docket No. 93) are hereby severed into a new action pursuant to FRCP 21. The Clerk is directed to open said new action and enter Docket No. 93 from this action in the new action. TPV Defendants' affirmative defenses and counterclaims that pertain to the foregoing Counts, as set forth in their First Amended Answer, Affirmative Defenses, and Counterclaims (Docket No. 157) are similarly severed into the newly created action and the Court shall enter Docket No. 157 from this action in the new action. Hitachi's Answer to TPV Defendants' First Amended Counterclaims (Docket No. 160) that pertains to the foregoing Counts and counterclaims is also severed into the new action and Docket No. 160 shall also be entered in the new action.

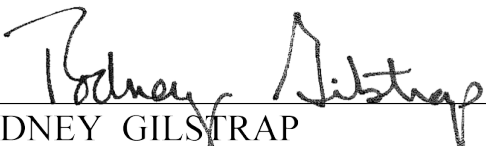
Following severance of the foregoing claims, counterclaims, and defenses and assignment of a new case number, Hitachi is directed to promptly submit a proposed order dismissing all claims, counterclaims and defenses in the new action without prejudice under FRCP 41(a)(2).

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<sup>1</sup> "TPV Defendants" means Top Victory Electronics (Taiwan) Co. Ltd., TPV Int'l (USA), Inc., Envision Peripherals, Inc., Top Victory Electronics (Fujian) Co. Ltd., TPV Electronics (Fujian) Co. Ltd, and TPV Technology Ltd.

**So Ordered and Signed on this**

**Apr 5, 2013**



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RODNEY GILSTRAP  
UNITED STATES DISTRICT JUDGE